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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,788

01/16/2004

Yuichi Ishino

1715432

6295

24240

7590

10/23/2006

CHAPMAN AND CUTLER  
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CHICAGO, IL 60603

EXAMINER

BEAUCHAINE, MARK J

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/758,788

Applicant(s)

ISHINO ET AL.

Examiner

Mark J. Beauchaine

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-18, 22, 26, 30 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-16, 18, 22, 26, 30 and 40 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The substitute specification filed 7 August 2006 is accepted and has been entered in the file of record.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "passes" (line 3) and "is not detected" (line 4) are ambiguous since it is unclear what element is relative to the actions of the sign part.

The term "record" (line 4) lacks sufficient antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-16, 18, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patent Number US 6,431,318 B1 by Tanaka ("Tanaka") in view of Patent Number 3,856,135 by Hayakawa et al ("Hayakawa"). The food and drink managing device disclose by Tanaka comprises endless circulating carrying path 3, identification information reading means combined with passage detection means 5a, sign parts 4, passage detection means 5b and registering means 9. Tanaka further discloses zones between sign parts 4 that are spaced at regular intervals.

Tanaka fails to disclose a throwing-in prohibited area. Hayakawa teaches carrying path 6 and tunnel-shaped cover of a throwing-in prohibited area for the purpose of preventing articles from entering the carrying path. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the throwing-in prohibited area of Hayakawa into the apparatus of Tanaka for the purpose of preventing articles from entering the carrying path.

Although the Applicant may consider Tanaka and Hayakawa to be nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Tanaka and Hayakawa disclose an article-carrying path. Since it is desirable to prevent the entry of unwanted articles into a carrying path the tunnel-shaped cover of Hayakawa is reasonable pertinent to the particular problem with which the Applicant was concerned.

Claims 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka in view of Hayakawa as applied to claim 14 above, and further in view of Patent Number US 6,554,106 B1 by Tokimoto ("Tokimoto"). Tanaka fails to disclose a time stamp configuration. Tokimoto teaches time registering means 5c, 40a, 40b, 41a, 41b, 50 for the purpose of registering time information related to food items being transported by the apparatus so that food items which have been on a conveyor path for longer than a predetermined period of time can be removed (see Tokimoto col. 2, lines 5-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the registering means of Tokimoto into the apparatus of Tanaka for the purpose of removing food items from the conveyor path which have been on the conveyor path for longer than a predetermined period of time.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka in view of Hayakawa as applied to claim 14 above, and further in view of Patent Number US 6,581,727 B1 by Tokuno ("Tokuno"). Tanaka fails to disclose price reading means. Tokuno teaches reading means 32 for the purpose of identifying inventory information of food and drinks conveyed by the apparatus (see Tokuno col. 2, lines 5-10 and col. 14, lines 1-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the price reading means of Tokuno into the apparatus of Tanaka for the purpose of identifying inventory information of food and drinks conveyed by the apparatus.

***Allowable Subject Matter***

Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (571)272-6934. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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